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Attorney Docket No.: 02307O-103031US  
Client Ref. No.: 1992-383-6

Assistant Commissioner for Patents  
Washington, D.C. 20231

On July 23, 2002

TOWNSEND and TOWNSEND and CREW LLP

By: Jeanine Anne Goldberg

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

NOBORI et al.

Application No.: 09/780,114

Filed: February 9, 2001

For: METHOD FOR DETECTION OF  
THE PRESENCE OR ABSENCE OF  
METHYLTHIOADENOSINE  
PHOSPHORYLASE (MTASE) IN A  
CELL SAMPLE BY DETECTION OF  
THE PRESENCE OR ABSENCE OF  
MTASE ENCODING NUCLEIC ACID  
IN THE CELL SAMPLE

Examiner: Jeanine Anne Goldberg

Art Unit: 1634

RESPONSE TO RESTRICTION  
REQUIREMENT

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

In response to Restriction Requirement mailed June 26, 2002, Applicants elect with traverse Group I, claim 11, drawn to a vector comprising a polynucleotide encoding peptides derived from methylthioadenosine phosphorylase (MTase). The due date for response is Thursday, July 26, 2002.

REMARKS

The foregoing election is made with traverse, as Groups I, II and III set forth by the Examiner all stem from a common concept and theory, and are thus related. As indicated above, Group I is drawn to a vector comprising a polynucleotide encoding

MTase peptides. Group II is drawn to synthetic or recombinantly produced MTase peptides. The recombinant proteins of Group II are produced using the recombinant nucleic acids of Group I. Group III is drawn to antibodies produced through immunization of an animal with the MTase peptides of claim 12. As such, prosecution of the claims of Groups I, II and III would not place a substantially greater burden on the Examiner.

According to the MPEP, where claims can be examined together without undue burden, the Examiner must examine the claims on the merits even though they are directed to independent and distinct inventions. See *e.g.*, MPEP at 803. In establishing that an "undue burden" would exist for co-examination of claims, the Examiner must show that examination of the claims would involve substantially different prior art searches, making the co-examination burdensome. To show undue burden resulting from searching difficulties, the Examiner must show that the restricted groups have a separate classification; have acquired a separate status in the art, if the groups are classified together; or that searching would require different fields of search (MPEP at 808.02).

Applicants also respectfully submit that Groups I, II and III can readily be searched without undue burden because a search for one group will identify art pertaining to the other groups. Applicants therefore respectfully request that the Examiner withdraw the Restriction Requirement and consider Groups I, II and III together.

#### CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at 415-576-0200.

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Respectfully submitted,



Beth L. Kelly  
Reg. No. P-51,868

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